



## MEMORANDUM

<b>DATE</b>	March 21, 2021
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	Kristi Pawlowski, Chair, Multidisciplinary Advisory Committee (MDC)
<b>SUBJECT</b>	<b>Agenda Item 5.B. Recommendation on Section 2032.1, Article 4, Division 20, Title 16 of the California Code of Regulations (CCR) Regarding Telemedicine and Time to Refill Prescriptions</b>

### **Background**

In May 2020, the Board voted to request the Director of the Department of Consumer Affairs (DCA) issue a temporary waiver of California Code of Regulations (CCR), title 16, section 2032.1, subsection (b)(3), to the extent it requires a veterinarian to have communicated with the client a course of treatment appropriate to the circumstance in order to establish a veterinarian-client-patient relationship (VCPR).

The Board requested the waiver be effective for the duration of the current State of Emergency issued by Governor Gavin Newsom on March 4, 2020, or until January 1, 2021, whichever date was earlier.

In addition, the Board voted to request a waiver of CCR, title 16, section 2032.1, subsection (c), to the extent it prohibits a veterinarian from prescribing a drug for a duration longer than one year from the date the veterinarian examined the animal and prescribed the drug. This temporary waiver was requested for issuance of prescriptions for a duration of no longer than 18 months from the date of last examination and prescription of the medication or until the Declaration of Emergency ends, whichever date was earlier.

Pursuant to Governor Newsom's Executive Order [N-39-20](#), on June 4, 2020, the DCA Director issued an Order Waiving Restrictions on Telemedicine and Extending Time to Refill Prescriptions ([June 4 Order](#)), which contained two waivers regarding the VCPR.

### **Telemedicine Waiver**

With respect to telemedicine restrictions related to the VCPR, the June 4 Order was [extended](#) on July 31, 2020, and extended [again](#) on September 17, 2020, so the waiver was in effect through December 31, 2020.

In November 2020, the Board's Executive Committee requested the DCA Director extend the waivers for 60 days, allowing for the Board to decide if it would like to further extend the waivers.

On December 15, 2020, the Director issued a new Order ([December 15 Order](#)) further extending the [June 4 Order](#) waiving, until February 28, 2021, specified telemedicine restrictions related to the VCPR.

On February 26, 2021, the Director issued a new Order ([February 26 Order](#)) further extending the [June 4 Order](#) waiving, until April 30, 2021, the specified telemedicine restrictions related to the VCPR.

### Prescriptions

For prescription refills associated with the VCPR, the [June 4 Order](#) authorized prescription refills up to 18 months for refills based on an in-person examination of an animal patient last performed by a veterinarian between June 1, 2019 and August 1, 2019. On November 25, 2020, the Director withdrew and superseded that waiver and issued an [order](#) authorizing prescription refills up to 20 months for refills based on an in-person examination of the animal patient last performed by the veterinarian between June 1, 2019 and August 1, 2019.

On July 31, 2020, the Director issued an [order](#) authorizing prescription refills up to 18 months for prescriptions that may not be refilled between August 2, 2020, and October 1, 2020, due to the one-year time limitation for refilling a prescription from the date the veterinarian last examined the animal patient and prescribed the drug.

On September 17, 2020, the Director issued an [order](#) authorizing prescription refills up to 18 months for prescriptions that may not be refilled between October 2, 2020, and December 31, 2020, due to the one-year time limitation for refilling a prescription from the date the veterinarian last examined the animal patient and prescribed the drug.

The [December 15 Order](#) authorizes prescription refills up to 18 months for prescriptions that may not be refilled between January 1, 2021, and February 28, 2021, due to the one-year time limitation for refilling a prescription from the date the veterinarian last examined the animal patient and prescribed the drug.

The [February 26 Order](#) prescription refills up to 18 months for prescriptions that may not be refilled between March 1, 2021, and April 30, 2021, due to the one-year time limitation for refilling a prescription from the date the veterinarian last examined the animal patient and prescribed the drug.

### **MDC Telemedicine Review**

During the July 2020 Board meeting, the Board directed the MDC to evaluate the telemedicine waiver and determine whether it should be made permanent. MDC Chair, Kristi Pawlowski, RVT, joined Dr. Richard Sullivan to form the Telemedicine Subcommittee to research this matter further and help facilitate the MDC's collaborative discussions during the October 21, 2020 meeting.

During the October meeting, MDC members heard from stakeholders with differing perspectives regarding the benefits and concerns of providing veterinary care through telemedicine. The MDC members asked questions of the stakeholders and engaged in a collaborative discussion. No actions were taken during this meeting.

The MDC continued its discussion on these matters during the January 27, 2021 MDC meeting. MDC members heard from the Executive Director of The College of Veterinarians of Ontario (CVO) about how they regulate telemedicine with the least restrictive requirements in North America. It was mentioned, relatively to California, there are very few overall Board complaints to the CVO, only 250. CVO's Professional Practice Standard and related Guide regarding telemedicine are attached for reference.

The MDC asked to hear from the American Association of Veterinary State Board's Virtual Veterinary Care panelist, Aaron Smiley, DVM; however, he was unable to attend. During that meeting, the Subcommittee discussed concerns with legislative proposals that would change the scope or standard of practice. The Subcommittee addressed concerns with how the Board will protect consumers with these changes when some of these services are out of state. Veterinarians have shared specific conditions in which they are concerned telemedicine would be very inappropriate, and in fact, could harm patients if given incorrect diagnosis via telehealth modalities. These conditions include feline urinary symptoms, heart murmurs and generalized pain. The MDC heard numerous examples in which telemedicine could have already been legally practiced, however, the profession seemed unaware of what they could or could not do under the current laws.

Due to the number of conflicting definitions and lack of education in the California veterinary profession and to protect consumers and animal patients, the MDC discussed the importance of providing clarity through definitions of telemedicine, telehealth, and teletriage.

The MDC discussed the Pediatric Telemedicine guidelines and compared it to veterinary telemedicine. Pediatric telemedicine is not provided for children under two (2) years of age.

### **Update Following MDC Review**

At its January 28, 2021 meeting, the Board [reviewed](#) and discussed the VCPR waiver orders and approved a motion to request the DCA Director to issue extensions and/or authorize the Executive Committee to approve extensions of the two VCPR waivers until the end of the State of Emergency or until the MDC provides final recommendations to the Board, whichever occurs first.

The MDC approved its final recommendations on the VCPR provisions at its January 27, 2021 meeting and now is reporting the final recommendations to the Board.

### **MDC Recommendation**

At the January 27, 2021 MDC meeting, the MDC approved a recommendation to the Board to maintain the existing VCPR condition specific language to adequately protect consumers and animal patients in the provision of veterinary telemedicine. Based upon the review and feedback from stakeholders, the MDC also approved a request to the Board for authority to define telemedicine, telehealth, teletriage, and teleconsultation.

### **Action Requested**

At the Board's January 28, 2021 meeting, the Board directed the Subcommittee to establish definitions of telemedicine, telehealth, teletriage, and teleconsultation. In addition, the MDC's recommendation is to make no changes to the regulatory VCPR condition specific provision. Accordingly, no Board action is requested this time.